

REMARKS

In view of the amendments above and the remarks/arguments below, reconsideration of the present application is respectfully requested.

I. Status of the Claims

Claims 1-6 are currently pending in this application. Claim 1 has been amended to delete without prejudice or disclaimer alleged new matter added in the previous amendment. Claim 1 has been amended for clarity and are supported by the specification as filed. No new matter has been added.

II. Claim Rejections under 35 U.S.C. § 112

Claims 1-6 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner contends step [1] of claim 1 which recites that the methanol solution is added to a culture “or a processed product of the culture and a partially purified product of ubiquinone-10 selected from” (emphasis added) which was added in the previous amendment constitutes new matter. Without conceding the correctness of the Examiner’s position, Applicants amended the corresponding phrase to read “in a medium or a processed product of the culture, or a partially purified product of.” Support for this amendment comes from the Specification as filed at page 3, lines 2-7. Applicants respectfully request reconsideration and withdrawal of this rejection.

III. Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-5 stand rejected as obvious over Japanese Patent Application Publication No. 56-131394 (JP '394). The Examiner has repeated and maintained her obviousness rejection presented in the previous Office Action of August 9, 2006. In her response to the arguments presented in Applicant's response of February 6, 2007 the Examiner appears to be misreading Claim 1. The Examiner states:

“Applicant asserts that JP ‘394 teaches that a purified ubiquinone-10 is recovered in a resulting hexane solution whereas steps [4] and [5] of Claim 1 require that a purified ubiquinone-10 is recovered in a methanol solution. In response to applicants argument that the references fail to show certain features of the applicants invention it is noted that the features upon which applicant relies (i.e., purified ubiquinone-10 recovered in a resulting methanol solution) are not recited in the rejected claim(s).”

The Examiner goes on to say:

“Instead, in the claims, after obtaining the resulting mixture of step [3], the insoluble matter is removed (as occurs with extraction by addition of a methanol solution as discussed in JP ‘394) and then a ubiquinone-10 containing solution is recovered.”

Applicants respectfully submit that steps [3], [4] and [5] produce a solution of ubiquinone-10 in methanol. Also, by virtue of the filtration of insoluble material from step [4], the solution of ubiquinone-10 in methanol, by definition, is purified.

In order to clarify this point, step [5] of Claim 1 has been amended to read:

“[5] recovering the methanol solution containing ubiquinone-10.”

Further, JP '394 teaches solubilizing a crude ubiquinone-10 extract in hexane followed by extraction with a 28% NH₄OH-MeOH (5:95) solution with the MeOH layer discarded and the

hexane layer extracted with 95% MeOH and the MeOH layer discarded. The impurities are removed via washings of the hexane layer with methanol solutions and the purified ubiquinone-10 resides in the hexane layer. The instant invention involves the precipitation of ubiquinone-10 in step [2] and impurities in step [4] from methanol solutions to afford purified ubiquinone-10 in a methanol solution. JP '394 provides no suggestion or motivation to precipitate ubiquinone-10 or impurities from crude solutions of ubiquinone-10 in polar solvents (i.e. methanol). Indeed JP '394 teaches away from using polar solvents to dissolve ubiquinone-10 since it teaches using hexane which is non polar.

Applicant's respectfully request reconsideration and withdrawal of this rejection.

CONCLUSION

In view of the above amendments and remarks applicants believe the pending application is in condition for allowance. Such action is earnestly solicited. If there are any remaining issues the Examiner is invited to contact the undersigned at the telephone number indicated below.

Dated: August 13, 2007

Respectfully submitted,

By 

Louis J. DeLuca

Registration No.: 47,522

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant